

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:18-cv-1012

DILLON S. TULIP,)
)
Plaintiff,)
)
v.)
)
)
ANTHONY LATI JENKINS,)
ZUMSTEIN, INC., and)
CHEESEMAN LLC,)
)
Defendants.)

**NOTICE OF REMOVAL TO
FEDERAL COURT**

Defendants Anthony Lati Jenkins, Zumstein, Inc., and Cheeseman LLC (“Defendants”), by and through undersigned counsel, respectfully remove the above-entitled action from the Superior Court of Durham County, North Carolina, to the United States District Court for the Middle District of North Carolina, pursuant to 28 U.S.C. §§ 1332 and 1441. In support of this Notice of Removal, Defendants state as follows:

1. This action is being removed to federal court based on diversity of citizenship between the parties and an amount in controversy greater than \$75,000.00.

2. On November 16, 2018, Plaintiff filed a Complaint in the Superior Court of Durham County, North Carolina, styled “Dillon S. Tulip v. Anthony Lati Jenkins, Zumstein, Inc., and Cheeseman LLC.” That case was assigned civil action number 18 CVS 004177 (“Superior Court action”). Counsel for Defendants

accepted service of the summons and Complaint on behalf of all Defendants on November 21, 2018. This notice is being filed within thirty (30) days of the date of service of the summons and Complaint on Defendants.

3. Plaintiff's claims for relief against Defendants in the Superior Court action are for negligence and negligence *per se*.

4. The United States District Court for the Middle District of North Carolina has original jurisdiction over the Superior Court action pursuant to 28 U.S.C. §1332(a) and it may be removed by Defendants pursuant to 28 U.S.C. §1441(a) and (b) for the following reasons:

- (a) Per the Plaintiff's Complaint, he is a resident of the State of Virginia.
- (b) At the commencement of this action and at all relevant times, Defendant Anthony Lati Jenkins was a citizen and resident of South Carolina.
- (c) Defendant Zumstein, Inc. was a Delaware corporation, with a principal place of business in Ohio.
- (d) Defendant Cheeseman LLC is a limited liability company duly organized under the laws of the State of Ohio with its principal place of business in Ohio.
- (e) The matter in controversy between Plaintiff and Defendants was, at the commencement of this action, one in which complete diversity of citizenship exists.

- (f) The amount in controversy between the Plaintiff and Defendants in this action, exclusive of interest and costs, exceeds \$75,000.00, on information and belief and based on the allegations in Plaintiff's Complaint and Plaintiff's demand for settlement.
- (g) Therefore, Defendants file this notice of removal of this action from Durham County Superior Court to the United States District Court for the Middle District of North Carolina.

5. Attached to this notice as **Exhibit 1** are copies of the Summons and Complaint filed in the Superior Court action.

6. A copy of this Notice of Removal is being served on the Clerk of Court of Durham County, North Carolina contemporaneously with the filing of this Notice of Removal, as shown by the notice attached as **Exhibit 2**.

WHEREFORE, Defendants respectfully request that this action be removed from the Superior Court of Durham County, North Carolina, to the United States District Court for the Middle District of North Carolina.

This the 11th day of December 2018.

/s/ F. Marshall Wall
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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of December 2018, I electronically filed the *Notice of Removal to Federal Court* with the Clerk of Court using the CM/ECF system and mailed the document via the United States Postal Service, postage pre-paid and addressed to:

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/s/ F. Marshall Wall
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